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January 30, 2018

VIA EPA FOIA ONLINE PORTAL

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

RE: FOIA REQUEST

Dear HQ FOIA Staff:

Pursuant to the Freedom of Information Act ("FOIA"), as amended, 5 U.S.C. Section 552, and the Environmental Protection Agency ("EPA" or "Agency") rules issued thereunder, 40 C.F.R. Part 2, I am requesting the following records, all of which were described in Chapter 2 of the National Marine Fisheries Service ("NMFS") Biological Opinion for chlorpyrifos, diazinon, and malathion issued on December 29, 2017 and provided to EPA's Office of Pesticide Programs:

- (1) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the Interagency Endangered Species Act ("ESA") National Academies of Science ("NAS") Implementation Workshop held on August 5-9, 2013 between EPA, the National Marine Fisheries Service ("NMFS"), the Fish and Wildlife Service ("FWS"), and the United States Department of Agriculture ("USDA"), including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (2) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 1st Interagency Stakeholder Meeting on Joint Interim Approaches to the NAS Recommendations held on November 13, 2013 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts (including FWS's transcript of the Q&A session) relating thereto.
- (3) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 2nd Interagency Workshop on Joint Interim Approaches to NAS

January 30, 2018

Page 2

Recommendations that was held on April 22, 2014 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.

- (4) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 3rd Stakeholder Workshop on Joint Interim Approaches to NAS held on October 6, 2014 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (5) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 4th Stakeholder Workshop on Joint Interim Approaches to NAS that was held on April 15, 2015 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto.
- (6) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 5th Interagency Workshop on Joint Interim Approaches to the NAS Recommendations held on January 25-28, 2016 between, among others, EPA, NMFS, FWS and USDA, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto, and in particular any such documents discussing analytical methods for the Step 3 analyses, including: (1) Step 3 (Biological Opinion) analysis species groupings; (2) how EPA, NMFS, and/or FWS would address species with little or no data; (3) how EPA, NMFS, and/or FWS would incorporate weight-of-evidence information into the consultation process; (4) how EPA, NMFS, and/or FWS would use qualitative versus quantitative information; and (5) how the magnitude of effect data would be used to estimate effect on a population scale.
- (7) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 6th Interagency Workshop held on September 19-21, 2016 between EPA, NMFS, and FWS, including but not limited to emails, letters, memoranda,

January 30, 2018

Page 3

agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto, and in particular any such documents discussing: (1) approaches to determining jeopardy; (2) pesticide usage data provided by EPA; or (3) the development of the MagTool.

- (8) Any and all records in EPA's possession which in any way relate to the discussion of the preparation of biological opinions during the 7th Interagency Workshop to discuss Integration and Synthesis held on November 29, 30, and December 1, 2016 between EPA, NMFS, and FWS, including but not limited to emails, letters, memoranda, agendas, reports, presentations, action items, notes, summaries, or transcripts relating thereto, and in particular any such documents discussing: (1) FWS and/or NMFS draft Biological Opinion frameworks; (2) experience using the recently developed MagTool; (3) challenges faced with example species; or (4) extrapolation methods proposed for use in further analysis.

If for any reason you determine that portions of the requested information are exempt from disclosure under FOIA, please delete the allegedly exempt material, inform me of the basis for the claimed exemption, and furnish me with copies of those portions of the document that you determine not to be exempt. My consent to such deletion at this time is designed to facilitate your prompt response and in no way waives my right to appeal any determination that you may make regarding the applicability of any FOIA exemptions to the requested documents and information.

If you determine that any complete documents are exempt from disclosure, please provide me with an index to them and explain the basis for that conclusion.

I request that you provide me with accurate copies of the information requested. I agree to pay reasonable search and reproduction costs. If these costs exceed \$250.00, however, I request that you notify me before reproducing the documents.

Pursuant to FOIA, I understand that EPA will respond with an initial determination regarding this request within 20 working days of your receipt of this letter. Should there be any need to delay providing records beyond that time, we request that responsive records be provided as they are identified, on a rolling basis, and that the Agency not await compilation of all responsive records before providing those that have been identified and need not be subject to further review to comply with legal requirements.



January 30, 2018

Page 4

Please use the following address for any correspondence or responses:

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If you have any questions about this request or require further information, please email me at hross@wileyrein.com or call me at 202-719-7296. Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to be "HMR" followed by a horizontal flourish.

Hume M. Ross